UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT KIM, an individual, Plaintiff, vs. CITY OF BRIDGETON, MISSOURI, and BRANDIN RANEY, in his capacity as a Police officer with the City of Bridgeton, Missouri, and LEAH HALL, in her capacity as a Police officer with the City of Bridgeton, Missouri, Defendants.	)	Case No. **JURY TRIAL DEMANDED**

COMPLAINT

COMES NOW Plaintiff Robert Kim ("Plaintiff" or "Kim"), by and through his undersigned counsel, and for his Complaint against Defendants City of Bridgeton, Missouri ("Bridgeton"), Brandin Raney ("Raney), as an officer of the City of Bridgeton Police Department, and Leah Hall ("Hall"), as an officer of the City of Bridgeton Police Department, (collectively, "Defendants"), states the following:

Introduction

1. This Complaint is based on an incident occurring on February 21, 2012 in the City of Bridgeton, Missouri wherein Plaintiff, an individual with disabilities, was unlawfully detained, Tasered and battered by officers of the Bridgeton Police Department ("BPD").

Parties

2. Plaintiff Kim is, and at all relevant times herein was, a resident of the State of Missouri. Plaintiff has severe type-one diabetes, and is profoundly deaf and communicates using hearing aids. Accordingly, Plaintiff is a qualified individual with disability under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. In order to communicate effectively in situations involving medical or legal advice, decision making, or more than very simple language, Plaintiff requires the use of his family members to assist him.

3. Defendant City of Bridgeton, Missouri ("Bridgeton") is a Missouri municipality organized and existing under the laws of the State of Missouri, located in St. Louis County, and as an ordinary part of its activity as a municipal corporation, Defendant Bridgeton operates and administers, and at all times material hereto, did operate, provides funding to, and administer the Bridgeton Police Department. Defendant Bridgeton is a public entity pursuant to 42 U.S.C. § 12131, and is subject to the provisions of Title II of the Americans with Disabilities Act. Upon information and belief, Defendant Bridgeton is a recipient of federal financial assistance, and is therefore subject to the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Defendant Bridgeton is a person within the meaning of 42 U.S.C. §1983.

4. At all times material hereto, Defendant Brandin Raney ("Raney") was a police officer, employed by Defendant Bridgeton to perform duties in the City of Bridgeton as a sworn law enforcement officer and was acting under color of state law. At all times relevant herein, Defendant Raney was acting as the agent, servant and employee of Defendant Bridgeton.

5. At all times material hereto, Defendant Leah Hall ("Hall"), was a police officer, employed by Defendant Bridgeton to perform duties in the City of Bridgeton as a sworn law

enforcement officer and was acting under color of state law. At all times relevant herein, Defendant Hall was acting as the agent, servant and employee of Defendant Bridgeton.

Jurisdiction and Venue

6. This action arises under the laws of the United States, including Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 12131, *et seq*., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 *et seq*. ("Rehabilitation Act"), as well as 42 U.S.C §§ 1983, 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

7. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b)(2), because all of the events or omissions giving rise to this claim occurred in the Eastern District of Missouri.

Allegations Common to All Counts

8. On February 21, 2012, Plaintiff was operating a motor vehicle on Interstate 270 near St. Charles Rock Road in Bridgeton, Missouri. At that time, Plaintiff's vehicle sustained a flat tire. While parked on the shoulder of the on-ramp, Plaintiff Kim contacted a roadside assistance service to change his vehicle's tire.

9. Plaintiff Robert Kim is profoundly deaf and has type-one diabetes. While waiting for roadside assistance, Plaintiff fell into a hypoglycemic state and began suffering from life-threatening diabetic shock.

10. Plaintiff's vehicle was parked on the shoulder at the time of this incident and his vehicle was not blocking or impeding traffic.

11. Defendant Hall was on duty at that time and was the first BPD officer to arrive on the scene.

12. At all times relevant Defendant Hall was in police uniform.

13. At all times relevant Defendant Hall was acting under color of law.

14. When Defendant Hall arrived on the scene, she became immediately aware that Plaintiff was hearing impaired and noted that she was unable to understand Plaintiff.

15. Despite knowing that Plaintiff Kim was hearing impaired, had difficulty speaking, and after being told repeatedly that he was in diabetic shock, Defendant Hall failed to attempt to procure emergency medical assistance to ensure effective communication with Plaintiff Kim. Instead, Defendant Hall called for backup from the BPD.

16. Pursuant to Defendant Hall's call for backup, Defendant Raney then arrived at the scene.

17. At all relevant times Defendant Raney was in police uniform.

18. At all relevant times Defendant Raney was acting under color of law.

19. At the time of Defendant Raney's arrival at the scene, Plaintiff was seated on the grassy area off the roadway.

20. When Defendant Raney arrived on the scene, Defendant Hall did not inform Defendant Raney that Plaintiff was deaf or that Plaintiff was in diabetic shock.

21. As Defendant Raney approached Plaintiff, Defendant Raney appeared to be in a visibly agitated state and was screaming at Plaintiff. Defendant Raney had his assigned Taser weapon drawn and pointed at Plaintiff.

22. Plaintiff, knowing that he was unable to understand and effectively communicate with the officers and fearing for his safety, tried to request Defendant Raney to put his Taser gun down and requested Defendants Hall and Raney for medical assistance. Defendants Hall and Raney did not comply with Plaintiff's requests.

23. In spite of their alleged inability to understand Plaintiff, coupled with Defendant Hall's knowledge that Plaintiff was hearing impaired, at no time did Defendants Hall or Raney seek the use of auxiliary aids or other means of effective communication to allow them to have effective communication with Plaintiff.

24. Defendants took no steps to ensure effective communication with Plaintiff, and did not provide him with accommodations to allow him to effectively communicate his serious medical condition during his encounter with Defendants Hall and Raney.

25. Unable to effectively communicate with Plaintiff, Defendant Raney fired his Taser at Plaintiff, striking Plaintiff in the chest. Plaintiff immediately fell to the ground. Defendant Raney continued to apply repeated electrical shocks through the Taser, even after Plaintiff was on the ground.

26. Defendant Raney also struck Plaintiff repeatedly while Plaintiff was on the ground and handcuffed Plaintiff while Plaintiff was on the ground.

27. Upon information and belief, Plaintiff was Tasered by Defendant Raney at least three times, one of which was while Plaintiff was handcuffed.

28. Defendant Raney was physically greater in size and strength than Plaintiff.

29. At no time were Defendants Raney or Hall reasonably in fear for their safety or the safety of others.

30 Defendants Raney and Hall did not stop traffic or request that traffic be redirected because of the situation at hand.

31. Plaintiff did not have any weapons.

32. Defendant Raney's use of the Taser and battery upon Plaintiff were not justified.

33. Plaintiff was not a threat to anyone at the scene.

34. Defendant Raney's use of his Taser and his battery on Plaintiff were excessive.

35. Defendant Raney's use of his Taser and his battery on Plaintiff violated Plaintiff's established constitutional right under the U.S. Constitution to be free from excessive force.

36. Defendant Raney is not entitled to qualified immunity because his use of force was objectively unreasonable under clearly established law at the time of the incident described herein.

37. Plaintiff was taken from the scene by emergency medical personnel in an ambulance to DePaul Health Center in St. Louis, Missouri. The emergency medical personnel noted that Plaintiff's blood glucose level was at a life-threatening level of 32 mcg/dl.

38. Defendant Hall rode in the ambulance with Plaintiff, but did not remove Plaintiff's handcuffs until Plaintiff was in the hospital.

39. Plaintiff was denied access to emergency medical treatment, causing his blood sugar to drop to life-threatening levels.

40. Defendant Bridgeton is mandated to provide aid and services to those individuals with disabilities such as Plaintiff. Plaintiff was discriminated against by not being provided with medical services, but instead was subjected to an unlawful battery and detainment as a result of the failure of Defendants.

41. Plaintiff is informed, believes, and thereon alleges that Defendants have failed and continue to fail to:

(a) Take appropriate steps to ensure that communication with individuals who are deaf or hard of hearing is as effective as communication with others;

(b) Provide appropriate auxiliary aids and services;

(c) Give primary consideration to the type of auxiliary aids requested by individuals who are deaf or hard of hearing; and

(d) Ensure that individuals who are deaf or hard of hearing can obtain information as to the existence and location of accessible services, activities, and facilities.

42. Plaintiff is informed, believes, and thereon alleges that Defendant Bridgeton has not adopted and does not enforce appropriate policies and procedures to ensure BPD takes appropriate steps to:

(a) Take appropriate steps to ensure that communication with individuals who are deaf or hard of hearing is as effective as communication with others;

(b) Provide appropriate auxiliary aids and services;

(c) Give primary consideration to the type of auxiliary aids requested by individuals who are deaf or hard of hearing; and

(d) Ensure that individuals who are deaf or hard of hearing can obtain information as to the existence and location of accessible services, activities, and facilities.

43. Upon information and belief, Defendant Bridgeton has no policy, practice or custom to accommodate individuals with hearing impairments and disabilities under the ADA and the Rehabilitation Act and this failure to provide these necessary accommodations created the damages suffered by, and danger encountered by, Plaintiff, as more fully set forth herein.

44. In addition, Defendant Bridgeton also failed to train its officers in a manner consistent with state and federal laws; and was negligent in the training of its police officers, in

providing care and safety to Plaintiff; and was negligent in failing to provide Plaintiff basic medical care in a manner that accommodated his disability.

45. Defendants also failed to operate the BPD in a manner consistent with state and federal laws; were negligent in providing care, protection, assistance, safety; and failed to provide Plaintiff with basic medical care in a manner that accommodated his disability.

46. At no time prior to Tasering Plaintiff and detaining Plaintiff did Defendants Hall or Raney contact or wait for emergency personnel to arrive and render aid to Plaintiff.

47. Defendants never provided Plaintiff with other means of effective communication.

48. Defendants engaged in the discriminatory practices described herein with malice, deliberate, and/or reckless indifference to Plaintiff's rights.

COUNT I
Violations of Section 504 of the Rehabilitation Act of 1973 – 29 U.S.C. § 794
(Against Defendant City of Bridgeton, Missouri)

49. Plaintiff re-alleges and incorporates by reference the above allegations set forth in this Complaint as if fully set forth herein.

50. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a), provides in pertinent part:

> No otherwise qualified individual with a disability in the United States, as defined in section 706(8) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

51. Defendants have discriminated against Plaintiff on the basis of disability in violation of 29 U.S.C. § 794 and its implementing regulations as more fully described above.

Such discrimination includes but is not limited to failure to provide accommodations and auxiliary aids and services.

52. Plaintiff is an individual with a disability who is substantially limited in several major life activities, including but not limited to his hearing, speaking and the functioning of his endocrine system. Accordingly, he is a qualified individual with a disability within the meaning of the Rehabilitation Act. See 29 U.S.C. §705(20)(B).

53. Defendant Bridgeton is a public entity and a recipient of federal financial assistance, and its police department, BPD, qualifies as a program and service for purposes of the Rehabilitation Act. Thus, Defendant Bridgeton must comply with the Rehabilitation Act's mandate. The Rehabilitation Act requires that federal money recipients reasonably accommodate persons with disabilities in their program activities and services and reasonably modify such services and programs to accomplish this purpose.

54. Plaintiff was qualified to participate in the services, programs, activities, and benefits provided to citizens by Defendant Bridgeton within the meaning of the Rehabilitation Act.

55. Defendant Bridgeton denied Plaintiff access to programs, benefits and services provided to other citizens solely on the basis of his disabilities and for which he was qualified to participate in, thereby violating the Rehabilitation Act.

56. Through their acts and omissions described herein, Defendant Bridgeton violated the Rehabilitation Act by:

(a) Failing to reasonably modify and accommodate police department operations and services for Plaintiff, which would include avoiding the use of excessive force against individuals suffering from type-one diabetes and/or hearing impairments, ensuring safe help and assistance when encountered by police officers and in a hypoglycemic state and educating and training officers in the care of type-one diabetics and/or hearing impairments. Defendant Bridgeton and its police department, BPD, made none of these modifications and accommodations;

(b) Failing to adopt a policy to protect the well-being of people like Plaintiff, who suffer from type-one diabetes and are in a hypoglycemic state and/or hearing impairments, thus facilitating Defendants Hall and Raney's discriminatory treatment;

(c) Discriminating against Plaintiff, as a type-one diabetic and/or hearing impaired individual, in the provision of services by its police department, in a diabetic health crisis situation, on the basis of his disability, by not accommodating his disability;

(d) Failing to conduct a self-examination plan under Section 504, and then failing to modify its programs and services to accommodate the needs of persons with type-one diabetes and/or hearing impairments, such as Plaintiff, when called upon to provide services at the scene of a stalled vehicle; and

(e) Failing to train and supervise BPD officers and employees to communicate effectively with individuals with type-one diabetes and/or hearing impairments and train and supervise BPD employees regarding the culture and behavior of individuals who have type-one diabetes and/or hearing impairments.

57. Despite the provisions of the Rehabilitation Act, Defendants persisted in imposing conditions and practices which discriminate against Plaintiff and other persons who have type-one diabetes and/or are deaf or hard of hearing, or have other disabilities by excluding Plaintiff from participation in, by denying him the benefits of, and subjecting him to discrimination in the benefits and services Defendants provide to the general public.

58. Defendants' conduct toward Plaintiff, including but not limited to their refusal to accommodate or assist him, directly and proximately caused his injuries.

59. As a direct and proximate result of the acts, omissions, and violations alleged above, Plaintiff has suffered damages, injuries, pain and suffering, inconvenience, emotional distress, impairment of quality of life, reasonable and necessary medical, hospital and other expenses, and deprivation of his civil rights.

60. Plaintiff has been injured and aggrieved by, and will continue to be injured and aggrieved by, Defendants' discrimination.

61. Defendants' actions were intentional and with reckless disregard and deliberate indifference for Plaintiff's rights as a person with disabilities.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor to declare that Defendant Bridgeton's actions and inactions violate the Rehabilitation Act of 1973; award Plaintiff damages for injuries, emotional distress, impairment of quality of life, reasonable and necessary medical, hospital and other expenses, and deprivation of his civil rights; and award Plaintiff his reasonable attorney's fees and costs incurred herein; and for such further, necessary, proper relief that the Court deems appropriate.

COUNT II
Violations of Title II of the Americans with Disabilities Act– 42 U.S.C §§12131 et seq.
(Against Defendant City of Bridgeton, Missouri)

62. Plaintiff re-alleges and incorporates by reference the above allegations set forth in this Complaint as if fully set forth herein.

63. Congress enacted the ADA upon finding, among other things, that "society has tended to isolate and segregate individuals with disabilities" and that such forms for discrimination continue to be "serious and pervasive social problem." 42 U.S.C. § 12101(a)(2).

64. In response to these findings, Congress explicitly stated that the purpose of the ADA is to provide "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and "clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(l) (2).

65. Title II of the ADA provides in pertinent part: "[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132.

66. The U.S. Department of Justice's regulations implementing Title II, 28 C.F.R. § 35.160, require public entities to:

(a) Take appropriate steps to ensure that communications with members of the public with disabilities are as effective as communications with others;

(b) Furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to enjoy the benefits of a service, program, or activity conducted by the public entity; and

(c) In determining what type of auxiliary aid and service is necessary, a

> public entity shall give primary consideration to the requests of the individual with a disability.

67. At 28 C.F.R. § 35.163(b), the regulations also require public entities to ensure that persons who are deaf or are hard of hearing can obtain information as to the existence and location of accessible, services, activities, and facilities.

68. Plaintiff is an individual with a disability who is substantially limited in several major life activities, including but not limited to his hearing, speaking, and the functioning of his endocrine system. Accordingly, he is a qualified individual with disability as defined in 42 U.S.C. § 12131(2).

69. At all times relevant to this action, Defendant Bridgeton is and was a public entity and is a local government or instrumentality of a state or local government as defined in 42 U.S.C. § 12131(1), and its police department, BPD, qualifies as a program, service, or activity to the general public for the purposes of the ADA.

70. The ADA, 42 U.S.C. § 12132, requires that no qualified individual with a disability, on the basis of that disability, be excluded from participation in or be denied the benefit of the services, programs, or activities of a public entity or be subjected to discrimination by any public entity.

71. Title II of the ADA affirmatively requires that governmental and public entities such as Defendant Bridgeton and its police department, BPD, modify and accommodate their practices, policies, and procedures as necessary to avoid discriminating against individuals with disabilities.

72. Through the acts and omissions of Defendant Bridgeton and its agents and employees described herein, Defendant Bridgeton violated Title II of the ADA by discriminating

against the Plaintiff by failing to provide him with communication that is effective as communication provided to the general public during the course of law enforcement interactions, including but not limited to investigation; arrest; questioning and interrogation.

73. Plaintiff is informed, believes, and thereon alleges that Defendant Bridgeton and its agents and employees could have reasonably provided him with auxiliary aids and services necessary to ensure effective communication with the Plaintiff.

74. As a result of presumptions and stereotypes about the deaf and hard of hearing and/or individuals with type-one diabetes, Defendants discriminated against the Plaintiff because of his disability.

75. Defendant Bridgeton violated the ADA by:

(a) Failing to reasonably modify and accommodate police department operations and services for Plaintiff, which would include avoiding the use of excessive force against individuals suffering from type-one diabetes and/or hearing impairments, ensuring safe help and assistance when encountered by police officers and in a hypoglycemic state and educating and training officers in the care of type-one diabetics and/or hearing impairments. Defendant Bridgeton and its police department, BPD, made none of these modifications and accommodations;

(b) Failing to adopt a policy to protect the well-being of people like Plaintiff, persons suffering from type-one diabetes and in a hypoglycemic state and/or hearing impairments, thus facilitating Defendants Hall and Raney's discriminatory treatment;

(c) Discriminating against Plaintiff, as a type-one diabetic and/or hearing impaired individual, in the provision of services by its police department, BPD, in a diabetic health crisis situation, on the basis of his disability, by not accommodating his disability;

(d) Failing to conduct a self-examination plan under the ADA, and then failing to modify its programs and services to accommodate the needs of persons with type-one diabetes and/or hearing impairments, such as Plaintiff, when called upon to provide services at the scene of a stalled vehicle;

(e) Failing to train and supervise BPD officers and employees to communicate effectively with individuals with type-one diabetes and/or hearing impairments and train and supervise BPD employees regarding the culture and behavior of individuals who have type-one diabetes and/or hearing impairments.

76. As a result of Defendants' actions, Plaintiff has been injured and suffered emotional distress, pain, and anguish.

77. At all times, Defendants Hall and Raney were authorized to but failed to provide and/or render Plaintiff medical assistance despite his repeated requests.

78. Defendants' actions were intentional and with reckless disregard and deliberate indifference for the Plaintiff's rights as a person with disabilities.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor to declare that Defendant Bridgeton's actions and inactions violate the American with Disabilities Act of 1990 as amended; award Plaintiff damages for injuries, emotional distress, impairment of quality of life, reasonable and necessary medical, hospital and other expenses, and deprivation of his civil rights; and award Plaintiff's reasonable attorney's fees and costs incurred herein; and for such further, necessary, proper relief that the Court deems appropriate.

COUNT III
Violations of 42 U.S.C. § 1983
(Against Defendant City of Bridgeton, Missouri)

79. Plaintiff re-alleges and incorporates by reference the above allegations set forth in this Complaint as if fully set forth herein.

80. Plaintiff is informed and believes and thereon alleges, that at all times herein mentioned, Defendant Bridgeton, and its police department, BPD, with deliberate indifference and conscious and reckless disregard to the safety, security and constitutional and statutory rights of Plaintiff, including the right to be free from unreasonable seizures, excessive force under the Fourth Amendment, and the right to procedural and substantive due process and equal protection under the Fourteenth Amendment, maintained, enforced, tolerated, ratified, permitted, acquiesced in, and/or applied among others, the following policies, practices and customs:

(a) Failing to adequately train, supervise, and control their officers in uses of force;

(b) Failing to adequately train, supervise, and control their officers in proper communication and appropriate responses to members of the public;

(c) Failing to set up systems to prevent abuse by officers including the failure to properly investigate uses of force;

(d) Failing to discipline officers involved in abusing their authority; and

(e) Condoning and encouraging their officers in the belief that they can violate the rights of persons such as the Plaintiff in this action with impunity, and that such conduct will not adversely affect their opportunities for promotion and other employment benefits.

81. Defendant Bridgeton through its police department, BPD, had policies, customs, and/or practices that were a direct and proximate cause of the unconstitutional deprivation of Plaintiff's liberty as set forth above.

82. The above mentioned policies, customs and practices include, but are not limited to, failing to properly train and supervise its police officers to ensure effective communication and not to discriminate against people who are deaf or hard of hearing and/or have type-one diabetes and are in a hypoglycemic state.

83. Defendant Bridgeton consequently breached its duty to properly train its officers, take steps to enforce such procedures to ensure protection of constitutional rights, and correct the police misconduct of which it had actual or constructive notice.

84. Upon information and belief, the failure to obtain auxiliary aids was an officially adopted custom and practice. This unwritten policy, custom and practice should have been discontinued in light of the Rehabilitation Act and the ADA. The failure to discontinue the practice of failing to provide adequate and effective communication with individuals who are deaf or hard of hearing and/or have type-one diabetes and in a hypoglycemic state directly and proximately resulted in the deprivation of the Plaintiff's rights and his resulting injuries and loss of freedom.

85. Defendant Bridgeton knew of its responsibility to provide effective communication with people who are deaf or hard of hearing and/or have type-one diabetes and in a hypoglycemic state, and recklessly failed to implement or train its police officers with respect

to any regulations regarding individuals who are deaf or hard of hearing and/or have type-one diabetes and in a hypoglycemic state.

86. The actions of Defendant Bridgeton deprived Plaintiff of his rights guaranteed by the Constitution of the United States and protected by 42 U.S.C. § 1983, including, but not limited to:

(a) The right and privilege not to be deprived of liberty without due process and equal protection of the law; and

(b) The right to be free from unreasonable seizure.

87. Upon information and belief, Defendant Bridgeton has, with deliberate indifference, adopted, implemented and executed the aforementioned policies, customs and practices which were directly responsible for the deprivation of Plaintiff's constitutional rights and the injuries that he sustained. In doing so, Defendant Bridgeton misused the power possessed by virtue of State law, and made possible only because Defendant Bridgeton was clothed with the authority of State law.

88. As a direct and proximate result of the aforesaid acts, omissions, customs, practices, policies and decisions of the aforementioned Defendant, Plaintiff was injured in his health and person. He suffered and will continue to suffer great mental and physical pain, suffering, anguish, fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment, and apprehension, which have caused Plaintiff to sustain damages in a sum to be determined at trial.

89. As a further direct and proximate result of the aforesaid acts, omissions, customs, practices, policies and decisions of the aforementioned defendants Plaintiff incurred medical

expenses, and will incur future medical expenses, which have caused Plaintiff to sustain damages in a sum to be determined at trial.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor to declare that Defendant Bridgeton's actions and inactions violate 42 U.S.C. § 1983; award Plaintiff compensatory damages; and award Plaintiff's reasonable attorney's fees and costs incurred herein; and for such further, necessary, proper relief that the Court deems appropriate.

COUNT IV
Violations of 42 U.S.C. § 1983
(Against Defendants Leah Hall and Brandin Raney)

90. Plaintiff re-alleges and incorporates by reference the above allegations set forth in this Complaint as if fully set forth herein.

91. This is a statutory cause of action based upon 42 U.S.C. § 1983 alleging violations of Plaintiff's rights under the Fourth and Fourteenth Amendments to be free from unreasonable seizures and excessive force when Defendants unjustifiably Tasered and detained Plaintiff. Defendants Raney and Hall's actions were objectively unreasonable and violated Plaintiff's rights to the integrity of his person.

92. The actions of Defendants Hall and Raney with respect to this incident, as more fully set forth above, violated Plaintiff's established rights under the Fourth and Fourteenth Amendment of the United States Constitution.

93. Defendant Hall's specific acts were objectively unreasonable. Defendant Hall failed to assess the medical needs of Plaintiff and then instead of helping the injured Plaintiff proceeded to sit idly by and allow Defendant Raney to inflict further harm by battering Plaintiff with a Taser. Defendant Hall had the ability to prevent this violation of Plaintiff's rights, but failed to do so.

94. Defendant Raney's specific acts were objectively unreasonable. Defendant Raney failed to assess the medical needs of Plaintiff and then instead of helping the injured Plaintiff proceeded to inflict further harm by battering Plaintiff with a Taser.

95. Defendant Raney's use of force was not based on any threat but was a form of punishment. Defendant Raney's use of force was objectively unreasonable under the circumstances, and was unconstitutional.

96. The above acts and omissions of Defendants Hall and Raney, while carried out under color of law, have no justification or excuse in law, and instead constitute a gross abuse of governmental authority and power, shock the conscience, are fundamentally unfair, arbitrary and oppressive, and unrelated to any activity in which governmental officers may appropriately and legally undertake in the course of protecting persons or property, or ensuring civil order. The above acts and omissions were consciously chosen among various alternatives and deprived Plaintiff of his rights guaranteed by the Constitution of the United States and protected by 42 U.S.C. § 1983, including, but not limited to:

(a) The right and privilege not to be deprived of liberty without due process and equal protection of the law; and

(b) The right to be free from unreasonable seizure.

97. As a direct and proximate result of the aforesaid acts, omissions, customs, practices, policies and decisions of the aforementioned defendants, Plaintiff was injured in his health and person. He suffered and will continue to suffer great mental and physical pain, suffering, anguish, fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment, and apprehension, which have caused Plaintiff to sustain damages in a sum to be determined at trial.

98. As a further direct and proximate result of the aforesaid acts, omissions, customs, practices, policies and decisions of the aforementioned defendants Plaintiff incurred medical expenses, and will incur future medical expenses, which have caused Plaintiff to sustain damages in a sum to be determined at trial.

99. Because Defendants Hall and Raney acted under color of state law, and both separately and in concert. The aforementioned acts of these defendants, were willful, wanton, malicious and oppressive, with reckless disregard or with deliberate indifference and with the intent to deprive Plaintiff of his constitutional rights and privileges, and did in fact violate the aforementioned rights and privileges, entitling Plaintiff to exemplary and punitive damages in an amount to be proven at the trial of this matter.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor to declare that Defendants Hall and Raney's actions and inactions violate 42 U.S.C. § 1983; award Plaintiff compensatory damage; an award of punitive damages; and award Plaintiff's reasonable attorney's fees and costs incurred herein; and for such further, necessary, proper relief that the Court deems appropriate.

Count V
Battery

100. Plaintiff re-alleges and incorporates by reference the above allegations set forth in this Complaint as if fully set forth herein.

101. The battery inflicted upon Plaintiff by Defendants, as more fully set forth above, was intended, willful, without provocation, without justification and without Plaintiff's consent or authorization, and further was committed while Defendants were operating within the scope of their employment as a police officers by the City of Bridgeton.

102. As a direct and proximate result of the battery, Plaintiff suffered severe injury, pain and agony, and the extreme fright, terror and humiliation.

103. The aforesaid acts of Defendants in committing the Battery upon Plaintiff were intentional, willful, wanton, and done with an evil motive and with an actual intention to cause harm to Plaintiff, thereby justifying the imposition of punitive and exemplary damages.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor; award Plaintiff compensatory damage; an award of punitive damages; and award Plaintiff's reasonable attorney's fees and costs incurred herein; and for such further, necessary, proper relief that the Court deems appropriate.

Count VI
Intentional Infliction of Emotional Distress

104. Plaintiff re-alleges and incorporates by reference the above allegations set forth in this Complaint as if fully set forth herein.

105. The aforesaid acts and omissions of Defendants, and each of them, were of such an extreme and outrageous nature as to be far beyond the bounds of all recognized standards of decency and civility and therefore condemned as an unacceptable violation of the social compact.

106. Defendants, and each of them, knew, or in the exercise of ordinary care, should have known, that their aforesaid acts and omissions were of such a nature and type as to create a substantial likelihood of causing Plaintiff to suffer severe emotional distress.

107. The aforesaid acts and omissions of Defendants, and each of them, were intentional or reckless.

108. As a direct and proximate result of the acts and omissions of Defendants, and each of them, Plaintiff did suffer severe emotional distress and physical injury.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in his favor; award Plaintiff compensatory damage; an award of punitive damages; and award Plaintiff's reasonable attorney's fees and costs incurred herein; and for such further, necessary, proper relief that the Court deems appropriate.

Demand for Jury Trial

Plaintiff requests a trial by jury on all issues in this case which are so triable.

Respectfully submitted,

/s/Cyrus Dashtaki________________
Cyrus Dashtaki, # 57606MO
Dashtaki Law Firm, LLC
5201 Hampton Avenue
St. Louis, MO 63109
Telephone: (314) 832-9600
Facsimile: (314) 353-0181
cyrus@dashtaki.com

John S. Steward, #45932MO
Steward Law Firm, LLC
1717 Park Avenue
St. Louis, Missouri 63104
314-571-7134
314-594-5950 fax
Glaw123@aol.com

ATTORNEYS FOR PLAINTIFF